KENT AND MEDWAY

JOINT HEALTH AND WELLBEING BOARD

9 OCTOBER 2018

BRIEFING PAPER: CARE QUALITY COMMISSION REVIEW AND EMERGING NATIONAL CONTEXT FOR HEALTH AND WELLBEING BOARDS

Report from: David Whittle, Director of Strategy, Policy, Relationships and Corporate Assurance, Kent County Council

Author: Karen Cook, Policy and Relationships Adviser (Health) Kent County Council

Summary:

This paper provides an opportunity for discussion on the position of the Joint Board in response to emerging national views on system wide leadership and governance. It focuses on the Care Quality Commission's reviews across 20 Health and Social Care systems and explores recommendations made by CQC following their critical review of wider partnership working in other areas. It also sets out changes expected in the immediate future that may impact on the work of the Joint Board.

1. Budget and Policy Framework

1.1 The Kent and Medway Joint Health and Wellbeing Board has been established as an advisory joint sub-committee of the Kent Health and Wellbeing Board and the Medway Health and Wellbeing Board under Section 198(c) of the Health and Social Care Act 2012.

1.2 The operating principles of the Joint Board set out that it will encourage persons who arrange for the provision of any health or social care services in Kent and Medway to work in an integrated manner and advise on the development of the Sustainability and Transformation Partnership (STP) Plans for Kent and Medway. In doing so the Joint Board will ensure collective leadership to improve health and well-being outcomes in the area and help to ensure the STP has democratic legitimacy and accountability.

1.3 This report is consistent with both Local Authorities' budget and Policy Framework.

2. Background

2.1 In July 2018 two national reports were published considering the progress of integration and the impact of those changes on people using health and social care services. These were (see overleaf):

- Care Quality Commission: *Beyond Barriers: How Older People Move Between Health and Care in England*. This summarised the findings from 20 system wide inspections from across England examining how well organisations were working together to deliver health and social care for older people.

- National Audit Office: *The Health and Social Care Interface*. This "think piece" presented and discussed 16 challenges to improved joint working drawing out the risks presented by inherent differences between the health and social care systems and how national and local bodies are managing these.

2.2 These documents were followed in August by *Key Questions for the Future of STPs and ICSs* published by NHS Providers which set out the position of Sustainability and Transformation Partnerships (STPs) and Integrated Care Systems (ICSs) and tried to answer a number of questions on collaboration and integration.

2.3 Both the reports from the Care Quality Commission (CQC) and National Audit Office (NAO) call for system wide leadership, either through a Health and Wellbeing Board (HWB) or the STP Programme Board, whatever is most appropriate or workable in an area. These reports do not conclude which approach is favourable stating only that both HWBs and STPs can be effective in bringing together local leaders to plan and deliver services. The CQC reported that in the local systems it has reviewed it was difficult to identify where system-level leadership accountability lay.

2.4 This lack of clarity about where system leadership should come from is raised in the briefing from NHS Providers which suggests that locally based responses to national transformation drivers and the development of STPs has created a patchwork of different offers across the Country, all at differing levels of maturity and with differing Governance models.

2.5 The conclusions and recommendations from these reports merit further analysis by the Joint Board. All papers agree that barriers remain to system working and there must be clarity about what can and cannot be delivered within existing legislative, regulatory and governance frameworks.

2.6 However, in Kent and Medway where we have a strong and inclusive STP Programme Board and a Joint HWB on the STP footprint we are in a strong position to demonstrate system level leadership is in place. However, despite CQC's recommendation that there must be a place for system wide joint decision making legal and organisational barriers exist that mean that key decisions cannot currently be made on behalf of the whole system.

3. **System Barriers**

3.1 The NAO report plainly sets out the barriers that exist and although they are fully understood at a local level it is useful to rehearse them again (see overleaf):

3.1.1 **Financial challenges**

- Both the NHS and local government are under financial pressure, which can make closer working between them difficult. This could deter organisations in partnerships from seeking system-wide benefits that may be detrimental to them as individual organisations.
- Short-term funding arrangements and uncertainty about future funding make it more difficult for health and social care organisations to plan effectively together.
- Additional funding for health and social care has at times been used to address the immediate need to reduce service and financial pressures in the acute sector.
- Current accountability arrangements, set by legislation, emphasise the need for individual organisations to balance their books.
- Different eligibility requirements for health and social care make it difficult to plan services around the needs of the individual.

3.1.2 **Culture and structure**

- Traditional boundaries between the NHS and local government, and between individual organisations within these sectors, lead to services being managed and regulated at an organisational level.
- The NHS and local government operate in very different ways and can have a poor understanding of how the other side's decisions are made.
- Complex governance arrangements are hindering decision-making within local health and social care systems.
- Problems with local leadership can destabilise or hold back efforts to improve working across health and local government.
- The geographical areas over which health and local government services are planned and delivered often do not align, which can make it difficult for the relevant organisations and their staff to come together to support person-centred care.
- Problems with sharing data across health and social care can prevent an individual's care from being coordinated smoothly.
- New job roles and new ways of working could help to support person-centred care, but it is difficult to develop these because of the divide between the health and social care workforces.

3.1.3 **Strategic issues**

- Differences in national influence and status, as well as public misunderstanding of how social care is provided and funded, have contributed to social care not being as well represented as the NHS.
- Organisations across a local system may have misaligned strategies, which can inhibit joint local planning.
- Central government in the past has had unrealistic expectations of the pace at which the required change in working practices can progress.
- Progress to date has demonstrated that joining up health and social care can support a greater focus on preventative services and the wider determinants of health

3.2 This extract is copied verbatim from the NAO report and not all of it is applicable to Kent and Medway. For example, complex governance

arrangements are raised as a potential barrier. The Joint Board was created to streamline governance across the STP footprint and the STP recently presented a new model for system wide governance that will simplify arrangements. Further we have good examples of information sharing and coordination of care planning supporting good delayed transfer of care rates which are better than the England average.

3.3 However, despite progress local systems can make through joint working the NHS Providers Briefing goes further in suggesting that the organisational barriers that prevent joint decision making will remain in place:

> *With parliamentary time tied up with Brexit, there remains no window for a substantial revamp of the Health and Social Care Act (2012), although we understand the government is minded to make minor amendments to legislation where it can. Our view is that although the existing legislative framework does not prevent collaboration between NHS and care bodies, we are so far away from the spirit and letter of the 2012 Act, particularly with regard to issues of governance, that a substantial review of legislation will be required.*

The report expresses concern that without national guidance then systems, organisations and individuals will be putting themselves at risk by trying to work around the current legislation.

4. The role of Health and Wellbeing Boards

4.1 All three reports concentrate on the need for broader leadership and how this can only develop out of trusted relationships where there has been stability of leaders and the willingness of organisations to work together beyond their own statutory remit for the benefit of the whole system. CQC's *Beyond Barriers* recognises that the 20 systems inspected were those known to be struggling and that there is good work happening in all systems to some extent. It acknowledges that success is mostly apparent and more advanced where there are established, long term relationships which have allowed for "work arounds" to have been agreed.

4.2 However, in the CQC report there is a lack of clarity about where system wide governance could come from. The report implies that leadership from either is acceptable - as long as there is leadership:

Both HWBs and STPs can be effective in bringing together local leaders to plan and deliver services. What is most important is that there is an established vison, local buy in, and a place where decisions can be made on behalf of the system. This is where local leaders can be held to account for system performance at leadership level.

4.3 Despite this, the role of Health and Wellbeing Boards is recognised as a key part of local governance arrangements. They are currently the main statutory mechanism for overseeing efforts to join up health and social care services and they have a role in exercising wider oversight of the system and for promoting transformational change. The STP has no statutory powers.

We saw the potential of the HWBs to provide effective collective leadership for the system. We found examples of this where the HWB had clarity of role and

purpose, representation from across the system, and a strong and committed leadership. HWBs could hold organisations in a system to account through setting out clear accountability between partners for the delivery of shared goals. We found examples of the HWB providing scrutiny and challenge, including over Better Care Fund (BCF) and STP progress.

4.4 However, there are very few places in the country where this is currently happening with the debate continuing, even in advanced systems about how joint decision making can happen outside the defined legal and constitutional obligations of each individual organisation and how sovereign organisations can be held to account by each other. The CQC report found that in the systems they assessed that Health and Wellbeing Boards were not fulfilling their potential, they varied in their effectiveness and were at different stages of development, underused where the STP footprints did not align and side-lined by emerging arrangements.

4.5 The development of the Joint Board has ensured that Kent and Medway are in a very different position. The Joint Board is fully engaged, working across the STP footprint to effectively fulfil its statutory legal and democratic function to support planning and commissioning in the local Health and Social Care system. This arrangement has attracted national attention with interest from the Local Government Association, The Department of Health and Social Care and the Ministry of Housing, Community and Local Government.

5. Recommendations for building a sustainable system

5.1 The CQC report recognised that much of the change needed to build sustainable system leadership is in the hands of Government and national bodies:

To build on these strong foundations, overcome the fragmentation of the system, and ensure that more people experience high-quality, personalised care, we need to see changes to:

- *the way the performance of health and social care is measured*
- *the funding arrangements for health and social care*
- *the way the future shape and skills of the workforce are planned, and*
- *regulation and oversight of health and social care.*

5.2 Despite this CQC ended its report with a series of recommendations listed below and it is helpful to explore how the work of the Joint Board can be assessed as supporting delivery of these:

5.2.1 Encouraging and enabling commissioners to bring about effective joined-up planning and commissioning

Local leaders should create an agreed joint plan for how older people are to be supported in their own homes, helped in an emergency, and then enabled to return home safely. This plan must maximise the potential contribution from voluntary, community and social enterprise organisations.

Local leaders must take a reformed approach to funding that allows and encourages local systems to deliver this plan by aligning and pooling their budgets.

A joint plan exists through the Case for Change supported by the work programme for the Local Care workstream. Encouraging and enabling joined up commissioning fits within the Board's terms of reference to review and influence commissioning plans as they develop from the emerging Strategic Commissioner function.

5.2.2 **A new approach to performance management**

There should be a single, joint, nationally agreed framework for measuring the performance of how organisations collectively deliver improved outcomes for older people. This would operate alongside oversight of individual provider organisations and use metrics that reflect outcomes for people – including from primary, community, social care and independent care providers – rather than relying primarily on information collected by acute hospitals.

A national framework would be a helpful tool for both the STP and the Joint Board and NHS Digital has recently published a range of data based on the STP footprint. However in lieu of a final nationally agreed set of indicators the STP is developing its own local performance dashboard that will be shared with the Joint Board to create the opportunity to challenge and discuss progress and impact on outcomes for local people. The Joint Board has also asked for the presentation of agreed performance measures as part of the standing items on Local Care and Prevention.

Local leaders should give more emphasis to investing in models of care that support prevention and avoid unwarranted admission to secondary care. To support this, local leaders must actively and effectively share information about people across organisational boundaries, with support from national leaders to make this possible and with the appropriate safeguards in place to maintain public confidence.

Local Care has its own workstream and action plan within the STP Programme and prevention is embedded across the STP. Progress reports on both Local Care and Prevention are part of the forward plan for the Joint Health and Wellbeing Board and form part of its terms of reference. It is within the remit of the Joint Board to request updates on the development of the Kent Care Record which will share information on an individual across health and social care as this will support the implementation of Local Care.

5.3 A move to joint workforce planning

Local leaders should agree joint workforce plans, with more flexible and collaborative approaches to staff skills and career paths. These plans should reflect and work in tandem with Health Education England and Department of Health and Social Care workforce strategies, anticipated later this year.

Workforce is a standing item on the Joint Board Agenda. The STP workforce workstream will inform this and is connected to the Local Workforce Action Board where there is representation across the system. The new Workforce Strategy is due to be presented to the Joint Board at the next meeting.

5.4 Better regulation and oversight of local systems

*To support the improved planning and reformed commissioning at a local level, government should consider new legislation to allow CQC to regulate local systems and hold them to account for how people and organisations work together to support people to stay well. This would also ensure that reg*ulation *does not just look at individual organisations but focuses on the quality of care experienced by people across the services they use.*

This is a national issue regarding the role of regulators. However, the Joint Board itself is evidence for regulators of how we are working together across Kent and Medway at a system level to look at commissioning plans and how people receive their care.

6. Horizon Scanning- Emerging context

At a national level, transformation is driving continued change.

6.1 **Regulation and the resurgence of regions:** NHS England and NHS Improvement have announced their intention to work more collaboratively including the development of seven new joint regional offices. NHS Providers see this as symbolising the blurring of the commissioner/provider split at a national level that is echoing locally through the formation of Integrated Care Systems and Integrated Care Partnership draft contracts. Whilst there has been no guidance yet as to how the new regional offices will relate to STPs, emerging ICSs and local systems - as well as Trusts and CCGs - the report suggests STP/ICS footprints will develop important relationships with the seven new regional NHSE/I offices.

6.1.1 Alongside that CQC, as seen above in their recommendations, has been using special powers to undertake the pilot work required to inspect system working but have highlighted the need for new powers to make this a routine part of its assessment. On 16 September CQC announced an extension of the system review programme stating that it had been asked to undertake 3 further system wide inspections and 3 follow up visits. It can be expected that CQC will continue to undertake these types of inspections, which include a review of commissioning across the interface of health and social care and an assessment of the governance in place for the management of resources.

6.2 National Planning and Social Care Green Paper

6.2.1 The NHS's 10-year plan is due to be published later this year, alongside the long delayed Social Care Green Paper. The scope of the NHS plan is slowly being revealed with the following workstreams amongst 14 confirmed to date:

- Cancer
- Cardiovascular and respiratory
- Mental health
- Learning disability and autism
- Healthy childhood and maternal health
- Prevention, personal responsibility and health inequalities
- Workforce, training and leadership

6.2.2 The workstreams, which have been developed by NHS England and NHS Improvement, are a key part of the NHS's response to the Prime Minister's call for a long term NHS plan, the first five years of which have been backed by a new funding settlement. In June it was announced that there would be additional annual increases for the NHS of 3.4% per annum, amounting to an extra £20.5 billion a year by 2023/24.

6.2.3 Meanwhile the contents of the Green Paper remain less precise and with no additional financial support identified the debate on long term funding for Social Care continues. The Government has said that the proposals will "ensure that the care and support system is sustainable in the long term" and will set out a number of options for consultation.

6.2.4 Other topics that the Government have said will be included in the Green paper include integration with health with the NHS and social care systems operating as one, support for family and carers, workforce, specialist housing and technological developments.

6.2.5 These key documents will no doubt impact on the work and priorities of Health and Social Care partners and the Joint Board will wish to have a view on local responses to these national changes.

7. Conclusion

7.1 In conclusion, it is nationally recognised that successful progress towards integration and system wide leadership is dependent on a range of local and national factors, most crucially the length of times partners have been working together in this way, with some advanced systems working in similar partnerships of 10 years or more. The Kent and Medway STP, which was only created 2 years ago continues to mature and build those important working relationships. The creation of the Joint Health and Wellbeing Board has attracted national interest as a future model and provides further evidence that Members and Senior Managers across our footprint are ambitious to create the right foundations for governance that will underpin whole system working and overcome the barriers described in this paper. However new national legislation will be necessary if the Government's intention to have a fully integrated health and social care system is to be realised. The publication of the NHS 10-year plan and the Social Care Green paper later this year will be central to the work of the Joint Board going forward.

8. Risk management

8.1 The continued existence of a vibrant and challenging Joint Board mitigates the risk of criticism if the area is inspected under a whole system approach.

9. Financial implications

9.1 There are no financial implications arising directly from this report.

10. Legal implications

10.1 There are no legal implications arising directly from this report.

11. Recommendation

11.1 The Joint Health and Wellbeing Board is asked to comment on and note this report and the contribution that the Joint Board makes to system wide leadership across Kent and Medway Health and Social Care.

Lead officer contact

Karen Cook
Policy and Relationships Adviser (Health)
Kent County Council
Email: Karen.cook@kent.gov.uk
Tel: 03000 415281

Appendices

None

Background papers

Care Quality Commission: Beyond barriers: How Older People Move Between Health and Care in England: (available online) https://www.cqc.org.uk/publications/themed-work/beyond-barriers-how-older-people-move-between-health-care-england 3 July 2018

National Audit Office: The health and social care interface: (available online) https://www.nao.org.uk/report/the-health-and-social-care-interface/ Published date: July 4, 2018

NHS Providers: Briefing, Key Questions for the Future of STPs and ICSs. (available on line) https://nhsproviders.org/key-questions-for-the-future-of-stps-and-icss Published Date: August 13 2018